

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015**

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**HOUSE BILL 905**

Short Title: Merge Cemetery Comm./Funeral Service Board. (Public)

Sponsors: Representatives Boles, Alexander, and Hunter (Primary Sponsors).  
*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Regulatory Reform.

April 16, 2015

A BILL TO BE ENTITLED  
AN ACT TO MERGE THE NORTH CAROLINA CEMETERY COMMISSION WITH THE  
NORTH CAROLINA BOARD OF FUNERAL SERVICE AND TO TRANSFER THE  
DUTIES AND POWERS OF THE NORTH CAROLINA CEMETERY COMMISSION  
TO THE NORTH CAROLINA BOARD OF FUNERAL SERVICE; RENAME THE  
NORTH CAROLINA BOARD OF FUNERAL SERVICE; AND MAKE CONFORMING  
CHANGES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Effective December 31, 2015, the North Carolina Cemetery Commission is abolished and the authority, powers, duties, and functions vested in the North Carolina Cemetery Commission are transferred to the North Carolina Board of Funeral Service, which shall be renamed the North Carolina Funeral Service and Cemetery Board. All records, property, and unexpended balances of funds of the North Carolina Cemetery Commission are transferred in their entirety to the North Carolina Funeral Service and Cemetery Board.

**SECTION 2.** G.S. 65-46, G.S. 65-48 through G.S. 65-53.1, and G.S. 90-210.20 are repealed.

**SECTION 3.** Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 13G.

"Funeral and Cemetery Services."

**SECTION 4.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted in Section 3 of this act, is amended by adding a new Part to read:

"Part 1. General Provisions."

**SECTION 4.(b)** G.S. 65-47 is recodified as G.S. 90-210.142 under Part 1 of Article 13G of Chapter 90 of the General Statutes, as enacted by subsection (a) of this section.

**SECTION 5.** Part 1 of Article 13G of Chapter 90 of the General Statutes, as enacted in Section 4(a) of this act, reads as rewritten:

"Part 1. General Provisions.

**§ 90-210.140. Definitions.**

Unless the context requires otherwise, the following definitions apply in this Article:

- (1) Advertisement. – The publication, dissemination, circulation, or placing before the public or causing directly or indirectly to be made, published, disseminated, or placed before the public any announcement or statement in a newspaper, magazine, or other publication, or in the form of a book,



- 1 notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card,  
2 label, or tag or over any radio, television station, or electronic medium.
- 3 (2) Bank of belowground crypts. – Any construction unit of belowground crypts  
4 acceptable to the Board which a cemetery uses to initiate its belowground  
5 crypt program or to add to existing belowground crypt structures.
- 6 (3) Belowground crypts. – An interment space consisting of preplaced  
7 chambers, either side by side or multiple depth, covered by earth and sod  
8 and are also known as lawn crypts, westminsters, or turf top crypts.
- 9 (4) Board. – The North Carolina Funeral Service and Cemetery Board.
- 10 (5) Burial. – Interment in any form, cremation, and the transportation of the  
11 dead human body as necessary therefor.
- 12 (6) Cemetery. – Any one or a combination of more than one of the following in  
13 a place used or to be used and dedicated or designated for cemetery  
14 purposes:
- 15 a. A burial park for earth interment.  
16 b. A mausoleum.  
17 c. A columbarium.
- 18 (7) Cemetery broker. – A legal entity engaged in the business of arranging sales  
19 of cemetery products between legal entities and which sale does not involve  
20 a cemetery company, but does not mean funeral establishments or funeral  
21 directors operating under G.S. 90-210.155, when dealing between legal  
22 entities wherein one of the entities shall be members of the family of a  
23 deceased person or other persons authorized by law to arrange for the burial  
24 and funeral of such deceased human being. This Article shall not apply to  
25 any cemetery broker selling less than five grave spaces per year.
- 26 (8) Cemetery company. – Any legal entity that owns or controls cemetery lands  
27 or property and conducts the business of a cemetery, including all cemeteries  
28 owned and operated by governmental agencies, churches, and fraternal  
29 organizations or their corporate agents for the duration of any sales and  
30 management contracts entered into with cemetery sales organizations or  
31 cemetery management organizations for cemetery purposes, or with any  
32 other legal entity other than direct employees of said governmental agency,  
33 church, or fraternal organization.
- 34 (9) Cemetery management organization. – Any legal entity contracting as an  
35 independent contractor with a cemetery company to manage a cemetery, but  
36 does not mean individual managers employed by and contracting directly  
37 with cemetery companies operating under this Article.
- 38 (10) Cemetery sales organization. – Any legal entity contracting with a cemetery  
39 which is exempt or not exempt under this Article to conduct sales of  
40 cemetery products, but does not mean individual salesmen or sales managers  
41 employed by and contracting directly with cemetery companies operating  
42 under this Article.
- 43 (11) Chapel. – A chapel or other facility separate from the funeral establishment  
44 premises for the primary purpose of reposing of dead human bodies,  
45 visitation, or funeral ceremony that is owned, operated, or maintained by a  
46 funeral establishment under this Article and that does not use the word  
47 "funeral" in its name, on a sign, in a directory, in advertising, or in any other  
48 manner; in which or on the premises of which there is not displayed any  
49 caskets or other funeral merchandise; in which or on the premises of which  
50 there is not located any preparation room; and of which no owner, operator,

- 1 employee, or agent thereof represents the chapel to be a funeral  
2 establishment.
- 3 (12) Columbarium. – A structure or building substantially exposed aboveground  
4 intended to be used for the interment of the cremated remains of a deceased  
5 person.
- 6 (13) Dead human bodies. – The bodies of deceased humans, including fetuses  
7 beyond the second trimester and the ashes from cremated bodies.
- 8 (14) Embalmer. – Any person engaged in the practice of embalming.
- 9 (15) Embalming. – The preservation and disinfection or attempted preservation  
10 and disinfection of dead human bodies by application of chemicals  
11 externally, internally, or both and the practice of restorative art including the  
12 restoration or attempted restoration of the appearance of a dead human body.  
13 Embalming shall not include the washing or use of soap and water to cleanse  
14 or prepare a dead human body for disposition by the authorized agents,  
15 family, or friends of the deceased who do so privately without pay or as part  
16 of the ritual washing and preparation of dead human bodies prescribed by  
17 religious practices; provided, that no dead human body shall be handled in a  
18 manner inconsistent with G.S. 130A-395.
- 19 (16) Funeral directing. – Engaging in the practice of funeral service except  
20 embalming.
- 21 (17) Funeral director. – Any person engaged in the practice of funeral directing.
- 22 (18) Funeral establishment. – Every place or premises devoted to or used in the  
23 care, arrangement, and preparation for the funeral and final disposition of  
24 dead human bodies, maintained for the convenience of the public in  
25 connection with dead human bodies, or as the place for carrying on the  
26 practice of funeral service.
- 27 (19) Funeral service. – The aggregate of all funeral service licensees and their  
28 duties and responsibilities in connection with the funeral as an organized,  
29 purposeful, time-limited, flexible, group-centered response to death.
- 30 (20) Funeral service licensee. – A person who is duly licensed and engaged in the  
31 practice of funeral service.
- 32 (21) Grave space. – A space of ground in a cemetery intended to be used for the  
33 interment in the ground of the remains of a deceased person.
- 34 (22) Human remains or remains. – The bodies of deceased persons, including the  
35 bodies in any stage of decomposition and cremated remains.
- 36 (23) Mausoleum. – A structure or building substantially exposed aboveground  
37 intended to be used for the entombment of remains of a deceased person.
- 38 (24) Mausoleum section. – Any construction unit of a mausoleum acceptable to  
39 the Board which a cemetery uses to initiate its mausoleum program or to add  
40 to its existing mausoleum structures.
- 41 (25) Person. – An individual, corporation, partnership, joint venture, or  
42 association as it relates to the operation of a cemetery.
- 43 (26) Practice of funeral service. – Engaging in the care or disposition of dead  
44 human bodies or in the practice of disinfecting and preparing, by embalming  
45 or otherwise, dead human bodies for the funeral service, transportation,  
46 burial, or cremation, or in the practice of funeral directing or embalming as  
47 presently known, whether under these titles, designations, or otherwise.  
48 "Practice of funeral service" also means engaging in making arrangements  
49 for funeral service, selling funeral supplies to the public, or making financial  
50 arrangements for the rendering of the services or the sale of the supplies.

1           (27) Resident trainee. – A person who is engaged in preparing to become licensed  
 2           for the practice of funeral directing, embalming, or funeral service under the  
 3           personal supervision and instruction of a person duly licensed for the  
 4           practice of funeral directing, embalming, or funeral service in the State of  
 5           North Carolina under the provisions of this Chapter and who is duly  
 6           registered as a resident trainee with the Board.

7           (28) Vault. – A crypt or underground receptacle which is used for interment in  
 8           the ground and which is designed to encase and protect caskets or similar  
 9           burial devices. For the purposes of this Article, a vault is a pre-need item  
 10           until delivery to the purchaser.

11 **"§ 90-210.141. License required for funeral service or cemetery operation.**

12           (a) An individual shall not engage in the practice of funeral directing, embalming, or  
 13           funeral service as defined in G.S. 90-210.140 unless the individual is licensed in accordance  
 14           with Part 3 of this Article.

15           (b) A person shall not operate as a cemetery company or sell pre-need grave space  
 16           without first receiving a license to conduct the business in accordance with Part 4 of this  
 17           Article.

18 **"§ 90-210.142. Scope.Application of Article.**

19           (a) The provisions of this Article shall apply to all persons engaged in the practice of  
 20           funeral service and the business of operating a cemetery as defined herein, except cemeteries in  
 21           this Article. Cemeteries owned and operated by governmental agencies or churches.  
 22           churches shall be exempt from this Article.

23           (b) Any cemetery beneficially owned and operated by a fraternal organization or its  
 24           corporate agent for at least 50 years prior to September 1, 1975, shall be exempt from the  
 25           provisions of Article 9 of this Chapter.  
 26           Article.

27           (c) A columbarium built in compliance with the requirements of former subsection (d)  
 28           of this section is not subject to the provisions of Article 9 of this Chapter this Article on or after  
 29           January 23, 2015, as long as the columbarium (i) continues to exist on the grounds of a private,  
 30           self-contained retirement community and (ii) continues to be reserved exclusively for the  
 31           residents of that community."

32           **SECTION 6.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted by  
 33           Section 3 of this act, is amended by adding a new Part to read:

34                                   "Part 2. Funeral Service and Cemetery Board."

35           **SECTION 6.(b)** The following sections of Article 13A of Chapter 90 of the  
 36           General Statutes are recodified under Part 2 of Article 13G of Chapter 90 of the General  
 37           Statutes, as enacted by subsection (a) of this section:

38                   (1) G.S. 90-210.18A is recodified as G.S. 90-210.145.

39                   (2) G.S. 90-210.19 is recodified as G.S. 90-210.146.

40                   (3) G.S. 90-210.22 is recodified as G.S. 90-210.147.

41                   (4) G.S. 90-210.23 is recodified as G.S. 90-210.148.

42                   (5) G.S. 90-210.24 is recodified as G.S. 90-210.149.

43           **SECTION 7.** Part 2 of Article 13G of Chapter 90 of the General Statutes, as  
 44           enacted by Section 6(a) of this act, reads as rewritten:

45                                   "Part 2. Funeral Service and Cemetery Board.

46 **"§ 90-210.145. Board of Funeral Service and Cemetery Board created; qualifications;**  
 47 **vacancies; removal.**

48           (a) Purpose. – The General Assembly declares that the practice of funeral service  
 49           affects and the operation of cemeteries affect the public health, safety, and welfare and is  
 50           subject to regulation and control in the public interest. The public interest requires that only  
 51           qualified persons be permitted to practice funeral service and operate cemeteries in North

1 Carolina and that ~~the profession~~ these professions merit the confidence of the public. This  
 2 Article shall be liberally construed to accomplish these ends.

3 (b) Board Created. – The North Carolina ~~Board of Funeral Service and Cemetery Board~~  
 4 is created and shall regulate the practice of funeral service and the operation of cemeteries in  
 5 this State. The Board shall have ~~nine~~ 12 members as follows:

6 (1) ~~Four~~ Two members appointed by the Governor from nominees  
 7 recommended by the North Carolina Funeral Directors Association, Inc.  
 8 These members shall be persons licensed under this Article.

9 (2) Two members appointed by the Governor from nominees recommended by  
 10 the Funeral Directors & Morticians Association of North Carolina, Inc.  
 11 These members shall be persons licensed under this Article.

12 (3) ~~One member~~ Two members appointed by the Governor who ~~is licensed~~  
 13 ~~under this Article and who is~~ are not affiliated with any funeral service trade  
 14 ~~association.~~ association or cemetery operation.

15 (4) Two members appointed by the Governor from a list of six nominees  
 16 recommended by the North Carolina Cemetery Association.

17 ~~(4)~~ (5) ~~One member~~ Two members appointed by the General Assembly, upon the  
 18 recommendation of the President Pro Tempore of the Senate. ~~This~~ One  
 19 member shall be a person who is not licensed under this Article or employed  
 20 by a person who is licensed under this ~~Article.~~ Article and one member shall  
 21 be a person who owns or manages a cemetery located in North Carolina.

22 ~~(5)~~ (6) ~~One member~~ Two members appointed by the General Assembly, upon the  
 23 recommendation of the Speaker of the House of Representatives. ~~This~~ One  
 24 member shall be a person who is not licensed under this Article or employed  
 25 by a person who is licensed under this ~~Article.~~ Article and one member shall  
 26 be a person who owns or manages a cemetery located in North Carolina.

27 (c) Terms. – Members of the Board shall serve staggered three-year terms, ending on  
 28 December 31 of the last year of the term or when a successor has been duly appointed,  
 29 whichever is later. No member may serve more than two complete consecutive terms.

30 ~~(e)~~ (d) Vacancies. – A vacancy shall be filled in the same manner as the original  
 31 appointment, except that all unexpired terms of Board members appointed by the General  
 32 Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies shall  
 33 serve the remainder of the unexpired term and until their successors have been duly appointed  
 34 and qualified.

35 ~~(d)~~ (e) Removal. – The Board may remove any of its members for neglect of duty,  
 36 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings as a  
 37 licensee shall be disqualified from participating in the official business of the Board until the  
 38 charges have been resolved.

39 ...

40 **"§ 90-210.147. Required meetings of the Board.**

41 The Board shall hold at least four meetings in each year. In addition, the Board may meet as  
 42 often as the proper and efficient discharge of its duties shall require. ~~Five~~ Seven members shall  
 43 constitute a quorum.

44 **"§ 90-210.148. Powers and duties of the Board.**

45 (a) The Board is authorized to adopt and promulgate ~~such~~ the rules and regulations for  
 46 transaction of its ~~business~~ business, specifications for the minimum quality of any product sold,  
 47 and for the carrying out and enforcement of the provisions of this Article as may be necessary  
 48 and as are consistent with the laws of this State and of the United States.

49 (b) The Board shall elect from its members a president, a vice-president and a secretary,  
 50 no two offices to be held by the same person. The president and vice-president and secretary

1 shall serve for one year and until their successors shall be elected and qualified. The Board  
2 shall have authority to engage adequate staff as deemed necessary to perform its duties.

3 (c) The members of the Board shall serve without compensation provided that ~~such the~~  
4 members shall be reimbursed for their necessary traveling expenses and the necessary expenses  
5 incident to their attendance upon the business of the Board, and in addition thereto they shall  
6 receive per diem and expense reimbursement as provided in G.S. 93B-5 for every day actually  
7 spent by ~~such the~~ member upon the business of the Board. All expenses, salaries and per diem  
8 provided for in this Article shall be paid from funds received under the provisions of this  
9 Article and shall in no manner be an expense to the State.

10 (d) Every person licensed by the Board and every resident trainee shall furnish all  
11 information required by the Board reasonably relevant to the practice of the profession or  
12 business for which the person is a licensee or resident trainee. Every funeral service  
13 establishment and its ~~records and records;~~ every place of business where the practice of funeral  
14 service or embalming is carried on and its ~~records records;~~ and every cemetery, cemetery  
15 broker, cemetery company, cemetery management organization, and cemetery sales  
16 organization and their records shall be subject to inspection by the Board during normal hours  
17 of operation and periods shortly before or after normal hours of operation and shall furnish all  
18 information required by the Board reasonably relevant to the business therein conducted. Every  
19 licensee, resident trainee, embalming facility, ~~and funeral service establishment establishment,~~  
20 cemetery, cemetery broker, cemetery company, cemetery management organization, and  
21 cemetery sales organization shall provide the Board with a current post-office address which  
22 shall be placed on the appropriate register and all notices required by law or by any rule or  
23 regulation of the Board to be mailed to any licensee, resident trainee, embalming facility, ~~or~~  
24 funeral service ~~establishment establishment,~~ cemetery, cemetery broker, cemetery company,  
25 cemetery management organization, or cemetery sales organization shall be validly given when  
26 mailed to the address so provided.

27 ~~(d)~~(e) The Board is empowered to hold hearings in accordance with the provisions of this  
28 Article and of Chapter 150B to subpoena witnesses and to administer oaths to or receive the  
29 affirmation of witnesses before the Board.

30 In any show cause hearing before the Board held under the authority of Chapter 150B of the  
31 General Statutes where the Board imposes discipline against a licensee, the Board may recover  
32 the costs, other than attorneys' fees, of holding the hearing against all respondents jointly, not to  
33 exceed two thousand five hundred dollars (\$2,500).

34 ~~(e)~~(f) The Board is empowered to regulate and inspect, according to law, funeral service  
35 establishments ~~and establishments,~~ embalming facilities, ~~facilities,~~ cemeteries, cemetery  
36 brokers, cemetery companies, cemetery management organizations, and cemetery sales  
37 organizations, their operation, and the licenses under which they are operated, and to enforce as  
38 provided by law the rules, regulations, and requirements of the Division of Health Services and  
39 of the city, town, or county in which the funeral service establishment or embalming facility is  
40 maintained and operated. Any funeral ~~establishment or establishment,~~ embalming facility  
41 facility, cemetery, cemetery broker, cemetery company, cemetery management organization, or  
42 cemetery sales organization that, upon inspection, is found not to meet all of the requirements  
43 of this Article shall pay a reinspection fee to the Board for each additional inspection that is  
44 made to ascertain that the deficiency or other violation has been corrected. The Board is also  
45 empowered to enforce compliance with the standards set forth in Funeral Industry Practices, 16  
46 C.F.R. 453 (1984), as amended from time to time.

47 (g) When the Board finds that failure by a licensee to maintain a cemetery properly has  
48 caused that cemetery to be a public nuisance or a health or safety hazard, the Board may bring  
49 an action for injunctive relief against the responsible licensee in the superior court of the county  
50 in which the cemetery or any part thereof is located.

1        (h) The Board may apply to the courts in its own name for injunctive relief to prevent  
2 violations of this Article or violations of any rules adopted pursuant to this Article. Any court  
3 may grant injunctive relief regardless of whether criminal prosecution or any other action is  
4 instituted as a result of the violation. A single violation is sufficient to invoke the injunctive  
5 relief under this subdivision. In any of these actions, an order or judgment may be entered  
6 awarding a temporary or permanent injunction as may be deemed proper; provided, that before  
7 any of these actions is brought, the Board shall give the cemetery at least 20 days' notice in  
8 writing, stating the alleged violation and giving the cemetery an opportunity within the 20-day  
9 period to cure the violation. In addition to all other means provided by law for the enforcement  
10 of a temporary restraining order, temporary injunction, or permanent injunction, the court shall  
11 have the power and jurisdiction to impound and to appoint a receiver for the property and  
12 business of the defendant, including books, papers, documents, and records appertaining  
13 thereto or so much thereof as the court may deem reasonably necessary to prevent further  
14 violation of this Article through or by means of the use of said property and business. The  
15 Board may institute proceedings against the cemetery or its officers, where after an  
16 examination pursuant to this Article a shortage in the care and maintenance trust fund,  
17 merchandise trust fund, or mausoleum and belowground crypts preconstruction trust fund is  
18 discovered, to recover the shortage.

19        (i) To examine a cemetery company's records when a person applies for a change of  
20 control of the company.

21        (j) The Board may investigate, upon its own initiative or upon a verified complaint in  
22 writing, the actions of any person engaged in the business or acting in the capacity of a licensee  
23 under this Article. The license of a licensee may be revoked or suspended for a period not  
24 exceeding two years, or until compliance with a lawful order imposed in the final order of  
25 suspension, or both, where the licensee in performing or attempting to perform any of the acts  
26 specified in this Article has been guilty of any of the following:

27            (1) Failing to pay the fees required herein.

28            (2) Failing to make any reports required by this Article.

29            (3) Failing to remit to the care and maintenance trust fund, merchandise trust  
30 fund, or preconstruction trust fund the required amounts.

31            (4) Making any substantial misrepresentation.

32            (5) Making any false statement of a character likely to influence or persuade.

33            (6) A continued and flagrant course of misrepresentation or making of false  
34 promises through cemetery agents or salesmen.

35            (7) Violating any provision of this Article or rule promulgated by the Board.

36            (8) Any other conduct, whether of the same or a different character than  
37 specified in this section, which constitutes fraud or dishonest dealing.

38        (k) Whenever any special additional audit or examination of a licensee's premises,  
39 facilities, books, or records is necessary because of the failure of the licensee to comply with  
40 the requirements imposed in this Article or by the rules and regulations of the Board, to charge  
41 a fee based on the cost of the special examination or audit, taking into consideration the salary  
42 of any employees involved in the special audit or examination and any expenses incurred.

43        ~~(l)~~ (l) The Board may establish, supervise, regulate and control programs for the resident  
44 trainee. It may approve schools of mortuary science or funeral service, graduation from which  
45 is required by this Article as a qualification for the granting of any license, and may establish  
46 essential requirements and standards for such approval of mortuary science or funeral service  
47 schools.

48        ~~(g)~~ (m) Schools for teaching mortuary science which are approved by the Board shall have  
49 extended to them the same privileges as to the use of bodies for dissecting while teaching as  
50 those granted in this State to medical colleges, but such the bodies shall be obtained through the  
51 same agencies which provide bodies for medical colleges.

1       ~~(h)(n)~~ The Board shall adopt a common seal.

2       ~~(h1)(o)~~ The Board shall have the power to acquire, hold, rent, encumber, alienate, and  
3 otherwise deal with real property in the same manner as a private person or corporation, subject  
4 only to approval of the Governor and the Council of State. Collateral pledged by the Board for  
5 an encumbrance is limited to the assets, income, and revenues of the Board.

6       ~~(h2)(p)~~ The Board may employ legal counsel and clerical and technical assistance, and fix  
7 the compensation therefor, and incur ~~such any~~ other expenses as may be deemed necessary in  
8 the performance of its duties and the enforcement of the provisions of this Article or as  
9 otherwise required by law and as may be necessary to carry out the powers herein conferred.

10       ~~(i)(q)~~ The Board may perform ~~such any~~ other acts and exercise ~~such any~~ other powers and  
11 duties as may be provided elsewhere in this Article or otherwise by law and as may be  
12 necessary to carry out the powers herein conferred.

13       "**§ 90-210.149. ~~Inspector.~~Inspectors; compliance with Article.**

14       (a) The Board ~~may shall~~ appoint ~~one or more~~ agents who shall serve at the pleasure of  
15 the Board and who shall have the title "Inspector of the North Carolina ~~Board of Funeral~~  
16 ~~Service.~~" Service and Cemetery Board. No person is eligible for appointment as inspector  
17 unless at the time of the appointment the person is licensed under this ~~Article as a funeral~~  
18 ~~service licensee.~~ Article.

19       (b) To determine compliance with the provisions of this Article and regulations  
20 promulgated under this Article, inspectors may do any of the following:

21           (1) Enter the office, establishment or place of business of any funeral service  
22 licensee, funeral director or embalmer in North Carolina, and any office,  
23 establishment or place in North Carolina where the practice of funeral  
24 service or embalming is carried on, or where that practice is advertised as  
25 being carried on, or where a funeral is being conducted or a body is being  
26 embalmed, to inspect the records, office, establishment, or facility, or to  
27 inspect the practice being carried on or license or registration of any licensee  
28 and any resident trainee operating ~~therein;~~ therein.

29           (2) Enter any hospital, nursing home, or other institution from which a dead  
30 human body has been removed by any person licensed under this Article or  
31 their designated representative to inspect records pertaining to the removal  
32 and its ~~authorization;~~ and authorization.

33           (3) May inspect criminal and probation records of licensees and applicants for  
34 licenses under this Article to obtain evidence of their character.

35           (4) Enter the office, establishment, or place of business in North Carolina of any  
36 cemetery broker, cemetery company, cemetery management organization,  
37 cemetery sales organization, or pre-need sales licensee to inspect the records,  
38 office, establishment, or facility or to inspect the practice conducted or  
39 license of any licensee.

40           (5) ~~Inspectors may~~ May serve papers and subpoenas issued by the Board or any  
41 office or member thereof under authority of this Article, and shall perform  
42 other duties prescribed or ordered by the Board.

43       (c) Upon request by the Board, the Attorney General of North Carolina shall provide  
44 the inspectors with appropriate identification cards, signed by the Attorney General or his  
45 designated agent.

46       (d) The Board may prescribe an inspection form to be used by the inspectors in  
47 performing their duties."

48       **SECTION 8.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted by  
49 Section 3 of this act, is amended by adding a new Part to read:

50                               "Part 3. Funeral Service License."



1 that the applicant is not less than 18 years of age, of good moral  
 2 character, and is the graduate of a high school or the equivalent  
 3 thereof, and shall indicate the licensee under whom the applicant  
 4 expects to train. A person training to become an embalmer may serve  
 5 under either a licensed embalmer or a funeral service licensee. A  
 6 person training to become a funeral director may serve under either a  
 7 licensed funeral director or a funeral service licensee. A person  
 8 training to become a funeral service licensee shall serve under a  
 9 funeral service licensee. The application must be sustained by oath of  
 10 the applicant and be accompanied by the appropriate fee. When the  
 11 Board is satisfied as to the qualifications of an applicant it shall  
 12 instruct the secretary to issue a certificate of resident traineeship.

13 ...

14 f. To meet the resident traineeship requirements of  
 15 ~~G.S. 90-210.25(a)(1), G.S. 90-210.25(a)(2) and G.S. 90-210.25(a)(3)~~  
 16 subdivisions (1) through (3) of subsection (a) of this section the  
 17 following must be shown by the affidavit(s) of the licensee(s) under  
 18 whom the trainee worked:

- 19 1. That the funeral director trainee has, under supervision,  
 20 assisted in directing at least 25 funerals during the resident  
 21 traineeship,
- 22 2. That the embalmer trainee has, under supervision, assisted in  
 23 embalming at least 25 bodies during the resident traineeship,
- 24 3. That the funeral service trainee has, under supervision,  
 25 assisted in directing at least 25 funerals and, under  
 26 supervision, assisted in embalming at least 25 bodies during  
 27 the resident traineeship.

28 g. The Board may suspend or revoke a certificate of resident traineeship  
 29 for violation of any provision of this ~~Article~~.Part.

30 ...

31 ~~h.~~j. The Board shall register no more than one resident trainee at a  
 32 funeral establishment that served 100 or fewer families during the 12  
 33 months immediately preceding the date of the application, and shall  
 34 register no more than one resident trainee for each additional 100  
 35 families served at the funeral establishment during the 12 months  
 36 immediately preceding the date of the application.

37 (5) The Board by regulation may recognize other examinations that the Board  
 38 deems equivalent to its own.

39 ...

40 f. The Board shall cause to be established and offered to the licensees,  
 41 each calendar year, at least eight hours of continuing education  
 42 courses. The Board may charge licensees attending these courses a  
 43 reasonable registration fee in order to meet the expenses thereof and  
 44 may also meet those expenses from other funds received under the  
 45 provisions of this ~~Article~~.Part.

46 g. Any person who having been previously licensed by the Board as a  
 47 funeral director or embalmer prior to July 1, 1975, shall not be  
 48 required to satisfy the requirements herein for licensure as a funeral  
 49 service licensee, but shall be entitled to have such license renewed  
 50 upon making proper application therefor and upon payment of the  
 51 renewal fee provided by the provisions of this ~~Article~~.Part. Persons

1 previously licensed by the Board as a funeral director may engage in  
2 funeral directing, and persons previously licensed by the Board as an  
3 embalmer may engage in embalming. Any person having been  
4 previously licensed by the Board as both a funeral director and an  
5 embalmer may upon application therefor receive a license as a  
6 funeral service licensee.

7 ...

8 ~~(a1)~~(b) Inactive Licenses. – Any person holding a license issued by the Board for funeral  
9 directing, for embalming, or for the practice of funeral service may apply for an inactive license  
10 in the same category as the active license held. The inactive license is renewable annually.  
11 Continuing education is not required for the renewal of an inactive license. The holder of an  
12 inactive license may not engage in any activity requiring an active license. The holder of an  
13 inactive license may apply for an active license in the same category, and the Board shall issue  
14 an active license if the applicant has completed a total number of hours of accredited  
15 continuing education equal to five times the number of years the applicant held the inactive  
16 license. No application fee is required for the reinstatement of an active license pursuant to this  
17 subsection. The holder of an inactive license who returns to active status shall surrender the  
18 inactive license to the Board.

19 ~~(a2)~~(c) In order to engage in the practice of funeral directing or funeral service, such a  
20 licensee must own, be employed by, or otherwise be an agent of a licensed funeral  
21 establishment; except that such a licensee may practice funeral directing or funeral service if:

22 ...

23 ~~(b)~~(d) Persons Licensed under the Laws of Other Jurisdictions. –

24 ...

25 (3) The Board may issue special permits, to be known as courtesy cards,  
26 permitting nonresident funeral directors, embalmers and funeral service  
27 licensees to remove bodies from and to arrange and direct funerals and  
28 embalm bodies in this State, but these privileges shall not include the right to  
29 establish a place of business in or engage generally in the business of funeral  
30 directing and embalming in this State. Except for special permits issued by  
31 the Board for teaching continuing education programs and for work in  
32 connection with disasters, no special permits may be issued to nonresident  
33 funeral directors, embalmers, and funeral service licensees from states that  
34 do not issue similar courtesy cards to persons licensed in North Carolina  
35 pursuant to this ~~Article-Part~~.

36 ~~(e)~~(e) Registration, Filing and Transportation. –

37 (1) The holder of any license granted by this State for those within the funeral  
38 service profession or renewal thereof provided for in this ~~Article-Part~~ shall  
39 cause registration to be filed in the office of the board of health of the county  
40 or city in which he practices his profession, or if there be no board of health  
41 in such county or city, at the office of the clerk of the superior court of such  
42 county. All such licenses, certificates, duplicates and renewals thereof shall  
43 be displayed in a conspicuous place in the funeral establishment where the  
44 holder renders service.

45 ...

46 (5) The following persons shall be exempt from the permit requirements of this  
47 section but shall otherwise be subject to subdivision (9) of this subsection  
48 and any rules relating to the proper handling, care, removal, or transportation  
49 of a dead human body:

- 50 a. Licensees under this ~~Article-Part~~ and their employees.  
51 b. Employees of common carriers.

- 1 c. Except as provided in sub-subdivision (6)c. of this section,  
2 employees of the State and its agencies and employees of local  
3 governments and their agencies.
- 4 d. Funeral directors licensed in another state and their employees.
- 5 ~~(d)~~(f) Establishment Permit. –
- 6 (1) No person, firm or corporation shall conduct, maintain, manage or operate a  
7 funeral establishment unless a permit for that establishment has been issued  
8 by the Board and is conspicuously displayed in the establishment. Each  
9 funeral establishment at a specific location shall be deemed to be a separate  
10 entity and shall require a separate permit and compliance with the  
11 requirements of this ~~Article~~Part.
- 12 (2) A permit shall be issued when:
- 13 a. It is shown that the funeral establishment has in charge a person,  
14 known as a manager, licensed for the practice of funeral directing or  
15 funeral service, who shall not be permitted to manage more than one  
16 funeral establishment. The manager shall be charged with overseeing  
17 the daily operation of the funeral establishment. If the manager  
18 leaves the employment of the funeral establishment and is the only  
19 licensee employed who is eligible to serve as manager, the funeral  
20 establishment may operate without a manager for a period not to  
21 exceed 30 days so long as: (i) the funeral establishment retains one or  
22 more licensees to perform all services requiring a license under this  
23 ~~Article~~Part; (ii) the licensees are not practicing under the exception  
24 authorized by ~~G.S. 90-210.25(a2)~~G.S. 90-210.155 and would  
25 otherwise be eligible to serve as manager; and (iii) the funeral  
26 establishment registers the name of the licensees with the Board.
- 27 b. The Board receives a list of the names of all part-time and full-time  
28 licensees employed by the establishment.
- 29 c. It is shown that the funeral establishment satisfies the requirements  
30 of ~~G.S. 90-210.27A~~G.S. 90-210.161.
- 31 d. The Board receives payment of the permit fee.
- 32 ...
- 33 (4) The Board may place on probation, refuse to issue or renew, suspend, or  
34 revoke a permit when an owner, partner, manager, member, operator, or  
35 officer of the funeral establishment violates any provision of this ~~Article~~Part  
36 or any regulations of the Board, or when any agent or employee of the  
37 funeral establishment, with the consent of any person, firm or corporation  
38 operating the funeral establishment, violates any of those provisions, rules or  
39 regulations. In any case in which the Board is entitled to place a funeral  
40 establishment permittee on a term of probation, the Board may also impose a  
41 penalty of not more than five thousand dollars (\$5,000) in conjunction with  
42 the probation. In any case in which the Board is entitled to suspend, revoke,  
43 or refuse to renew a permit, the Board may accept from the funeral  
44 establishment permittee an offer to pay a penalty of not more than five  
45 thousand dollars (\$5,000). The Board may either accept a penalty or revoke  
46 or refuse to renew a license, but not both. Any penalty under this subdivision  
47 may be in addition to any penalty assessed against one or more licensed  
48 individuals employed by the funeral establishment.
- 49 ...
- 50 ~~(d1)~~(g) Embalming Outside Establishment. – An embalmer who engages in embalming in a  
51 facility other than a funeral establishment or in the residence of the deceased person shall, no

1 later than January 1 of each year, register the facility with the Board on forms provided by the  
2 Board.

3 ~~(e)~~(h) Revocation; Suspension; Compromise; Disclosure. –

4 (1) Whenever the Board finds that an applicant for a license or a person to  
5 whom a license has been issued by the Board is guilty of any of the  
6 following acts or omissions and the Board also finds that the person has  
7 thereby become unfit to practice, the Board may suspend or revoke the  
8 license or refuse to issue or renew the license, in accordance with the  
9 procedures set out in Chapter 150B of the General Statutes:

10 ...

11 h. Aiding or abetting an unlicensed person to perform services under  
12 this ~~Article, Part~~, including the use of a picture or name in connection  
13 with advertisements or other written material published or caused to  
14 be published by the licensee.

15 ...

16 j. Violating or cooperating with others to violate any of the provisions  
17 of this ~~Article-Part~~ or Articles 13D, 13E, or 13F of Chapter 90 of the  
18 General Statutes, any rules and regulations of the Board, or the  
19 standards set forth in Funeral Industry Practices, 16 C.F.R. 453  
20 (1984), as amended from time to time.

21 ...

22 No person licensed under this ~~Article-Part~~ shall remove or cause to be embalmed a dead  
23 human body when he or she has information indicating crime or violence of any sort in  
24 connection with the cause of death, nor shall a dead human body be cremated, until permission  
25 of the State or county medical examiner has first been obtained. However, nothing in this  
26 ~~Article-Part~~ shall be construed to alter the duties and authority now vested in the office of the  
27 coroner.

28 No funeral service establishment shall accept a dead human body from any public officer  
29 (excluding the State or county medical examiner or his agent), or employee or from the official  
30 of any institution, hospital or nursing home, or from a physician or any person having a  
31 professional relationship with a decedent, without having first made due inquiry as to the  
32 desires of the persons who have the legal authority to direct the disposition of the decedent's  
33 body. If any persons are found, their authority and directions shall govern the disposal of the  
34 remains of the decedent. Any funeral service establishment receiving the remains in violation  
35 of this subsection shall make no charge for any service in connection with the remains prior to  
36 delivery of the remains as stipulated by the persons having legal authority to direct the  
37 disposition of the body. This section shall not prevent any funeral service establishment from  
38 charging and being reimbursed for services rendered in connection with the removal of the  
39 remains of any deceased person in case of accidental or violent death, and rendering necessary  
40 professional services required until the persons having legal authority to direct the disposition  
41 of the body have been notified.

42 When and where a licensee presents a selection of funeral merchandise to the public to be  
43 used in connection with the service to be provided by the licensee or an establishment as  
44 licensed under this ~~Article, Part~~, a card or brochure shall be directly associated with each item  
45 of merchandise setting forth the price of the service using said merchandise and listing the  
46 services and other merchandise included in the price, if any. When there are separate prices for  
47 the merchandise and services, such cards or brochures shall indicate the price of the  
48 merchandise and of the items separately priced.

49 At the time funeral arrangements are made and prior to the time of rendering the service  
50 and providing the merchandise, a funeral director or funeral service licensee shall give or cause  
51 to be given to the person or persons making such arrangements a written statement duly signed

1 by a licensee of said funeral establishment showing the price of the service as selected and what  
2 services are included therein, the price of each of the supplemental items of services or  
3 merchandise requested, and the amounts involved for each of the items for which the funeral  
4 establishment will advance moneys as an accommodation to the person making arrangements,  
5 insofar as any of the above items can be specified at that time. If fees charged by a finance  
6 company for expediting payment of life insurance proceeds to the establishment will be passed  
7 on to the person or persons responsible for payment of the funeral expenses, information  
8 regarding the fees, including the total dollar amount of the fee, shall be disclosed in writing.  
9 The statement shall have printed, typed or stamped on the face thereof: "This statement of  
10 disclosure is provided under the requirements of North Carolina ~~G.S. 90-210.25(e).~~"  
11 G.S. 90-210.155(h)." The Board may prescribe other disclosures that a licensee shall give to  
12 consumers upon finding that the disclosure is necessary to protect public health, safety, and  
13 welfare.

14 ~~(e1)~~(i) The taking or recovery of human tissue at a funeral establishment by any person is  
15 prohibited. The prohibition does not apply to any of the following:

- 16 (1) A licensee under this ~~Article-Part~~ that performs embalming or otherwise  
17 prepares a dead human body in the ordinary course of business.

18 ...

19 ~~(f)~~(j) Unlawful Practices. – If any person shall practice or hold himself or herself out as  
20 practicing the profession or art of embalming, funeral directing or practice of funeral service or  
21 operating a funeral establishment without having complied with the provisions of this ~~Article,~~  
22 Part, the person shall be guilty of a Class 2 misdemeanor.

23 ~~(g)~~(k) Whenever it shall appear to the Board that any person, firm or corporation has  
24 violated, threatens to violate or is violating any provisions of this ~~Article-Part~~, the Board may  
25 apply to the courts of the State for a restraining order and injunction to restrain these practices.  
26 If upon application the court finds that any provision of this ~~Article-Part~~ is being violated, or a  
27 violation is threatened, the court shall issue an order restraining and enjoining the violations,  
28 and this relief may be granted regardless of whether criminal prosecution is instituted under the  
29 provisions of this subsection. The venue for actions brought under this subsection shall be the  
30 superior court of any county in which the acts are alleged to have been committed or in the  
31 county where the defendant in the action resides.

32 ...

33 **"§ 90-210.157. Persons who shall not be licensed under this ~~Article-Part~~.**

34 (a) The board shall not issue or renew any licensure, permit, or registration to any  
35 person or entity who has been convicted of a sexual offense against a minor.

36 (b) For purposes of this ~~Article-Part~~, the term "sexual offense against a minor" means a  
37 conviction of any of the following offenses: G.S. 14-27.4A(a) (sex offense with a child; adult  
38 offender), G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years  
39 old where the defendant is at least six years older), G.S. 14-190.16 (first-degree sexual  
40 exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor),  
41 G.S. 14-190.17A (third degree sexual exploitation of a minor), G.S. 14-190.18 (promoting  
42 prostitution of a minor), G.S. 14-190.19 (participating in prostitution of a minor), G.S. 14-202.1  
43 (taking indecent liberties with children), G.S. 14-202.3 (solicitation of child by computer or  
44 certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking  
45 indecent liberties with a student), G.S. 14-318.4(a1) (parent or caretaker commit or permit act  
46 of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual  
47 act upon a juvenile by parent or guardian). The term shall also include a conviction of the  
48 following: any attempt, solicitation, or conspiracy to commit any of these offenses or any  
49 aiding and abetting any of these offenses. The term shall also include a conviction in another  
50 jurisdiction for an offense which if committed in this State has the same or substantially similar  
51 elements to an offense against a minor as defined by this section.

1 ...

2 **"§ 90-210.158. Fees.**

3 The Board may set and collect fees, not to exceed the following amounts:

4 Establishment permit	
5       Application .....	\$400.00
6       Annual renewal .....	250.00
7       Late renewal .....	150.00
8 Establishment and embalming facility reinspection fee .....	100.00
9 Courtesy card	
10       Application .....	100.00
11       Annual renewal .....	75.00
12 Out-of-state licensee	
13       Application .....	250.00
14 Embalmer, funeral director, funeral service	
15 Application-North	
16       Carolina-Resident .....	200.00
17       -Non-Resident .....	250.00
18 Annual Renewal-embalmer or	
19 funeral director .....	75.00
20 Total fee, embalmer and funeral director	
21 when both are held by the same person .....	100.00
22 -funeral service .....	100.00
23 Inactive Status .....	50.00
24 Reinstatement fee .....	50.00
25 Resident trainee permit	
26       Application .....	50.00
27       Voluntary change in supervisor .....	50.00
28       Annual renewal .....	35.00
29       Late renewal .....	25.00
30       Duplicate license certificate .....	25.00
31 Chapel registration	
32       Application .....	150.00
33       Annual renewal .....	100.00
34       Late renewal .....	75.00

35 The Board shall provide, without charge, one copy of the current statutes and regulations  
 36 relating to Funeral Service to every person applying for and paying the appropriate fees for  
 37 licensing pursuant to this ~~Article-Part~~. The Board may charge all others requesting copies of  
 38 the current statutes and regulations, and the licensees or applicants requesting additional copies,  
 39 a fee equal to the costs of production and distribution of the requested documents.

40 **"§ 90-210.159. Students.**

41 (a) Students who are enrolled in duly accredited mortuary science colleges in North  
 42 Carolina may engage in the practices defined in this ~~Article-Part~~ if the practices are part of their  
 43 academic training and if the practices are under the supervision of a licensed instructor of  
 44 mortuary science or a licensee designated by the mortuary science college upon registration  
 45 with the Board.

46 ...

47 **"§ 90-210.161. Funeral establishments.**

48 ...

49 (e)(d) If a funeral establishment is solely owned by a natural person, that person must be  
 50 licensed by the Board as a funeral director or a funeral service licensee. If it is owned by a  
 51 partnership, at least one partner must be licensed by the Board as a funeral director or a funeral

1 service licensee. If it is owned by a corporation, the president, vice-president, or the chairman  
 2 of the board of directors must be licensed by the Board as a funeral director or a funeral service  
 3 licensee. If it is owned by a limited liability company, at least one member must be licensed by  
 4 the Board as a funeral director or a funeral service licensee. The licensee required by this  
 5 subsection must be actively engaged in the operation of the funeral establishment.

6 ~~(f)~~(e) If a funeral establishment uses the name of a living person in the name under which  
 7 it does business, that person must be licensed by the Board as a funeral director or a funeral  
 8 service licensee.

9 ~~(g)~~(f) No funeral establishment shall own, operate, or maintain a chapel without first  
 10 having registered the name, location, and ownership thereof with the Board; own or maintain  
 11 more than two chapels, or own or maintain a chapel outside of a radius of 50 miles from the  
 12 funeral establishment. A duly licensed person may use a chapel for making arrangements for  
 13 funeral services, selling funeral merchandise to the public by photograph, video, or computer  
 14 based presentation, or making financial arrangements for the rendering of the service or sale of  
 15 supplies, provided that the uses are secondary and incidental to and do not interfere with the  
 16 reposing of dead human bodies, visitation, or funeral ceremony.

17 ~~(h)~~(g) All public health laws and rules apply to funeral establishments. In addition, all  
 18 funeral establishments must comply with all of the standards established by the rules adopted  
 19 by the Board.

20 ~~(i)~~(h) No funeral establishment shall use an unregistered or misleading name. Misleading  
 21 names include, but are not limited to, names in the plural form when there is only one funeral  
 22 establishment, the use of names of deceased individuals, unless the establishment is licensed  
 23 using the name at the time the new application is made, the use of names of individuals not  
 24 associated with the establishment, and the use of the word "crematory" or "crematorium" in the  
 25 name of a funeral establishment that does not own a crematory. If an owner of a funeral  
 26 establishment owns more than one funeral establishment, the owner may not use the word  
 27 "crematory" or "crematorium" in the name of more than one of its funeral establishments;  
 28 except that each funeral home having a crematory on the premises may contain the term  
 29 "crematory" or "crematorium" in its name.

30 ~~(j)~~(i) A funeral establishment will not use any name other than the name by which it is  
 31 properly registered with the Board.

32 ...."

33 **SECTION 9.(a)** Article 13G of Chapter 90 of the General Statutes, as enacted by  
 34 Section 3 of this act, is amended by adding a new Part to read:

35 "Part 4. Cemetery License."

36 **SECTION 9.(b)** The following sections are recodified as Part 4 of Article 13G of  
 37 Chapter 90 of the General Statutes, as enacted by subsection (a) of this section:

- 38 (1) G.S. 65-54 through G.S. 65-56 are recodified as G.S. 90-210.170 through  
 39 G.S. 90-210.173.
- 40 (2) G.S. 65-73 and G.S. 65-57 through G.S. 65-60 are recodified as  
 41 G.S. 90-210.174 through G.S. 90-210.178.
- 42 (3) G.S. 65-72 and G.S. 65-60.1 through G.S. 65-71 are recodified as  
 43 G.S. 90-210.179 through G.S. 90-210.191.

44 **SECTION 10.** Part 4 of Article 13G of Chapter 90 of the General Statutes, as  
 45 enacted by Section 9(a) of this act, reads as rewritten:

46 "Part 4. Cemetery License.

47 "**§ 90-210.170. Annual ~~budget of Commission; cemetery and inspection fee; collection of~~**  
 48 **funds.**

49 ~~The Commission shall prepare an annual budget and shall collect the sums of money~~  
 50 ~~required for this budget from yearly fees and from any other sources provided in this Article.~~  
 51 On or before July 1 of each year, each licensed cemetery shall pay a license fee to be set by the

1 ~~Commission-Board~~ in an amount not to exceed six hundred dollars (\$600.00). In addition, each  
2 licensed cemetery shall pay to the ~~Commission-Board~~ an inspection fee for each grave space,  
3 niche, or mausoleum crypt when the certificate of interment right is issued and shall pay a fee  
4 for each vault, belowground crypt, memorial, or opening and closing of a grave space that is  
5 included in a preneed cemetery contract. The inspection fee for each grave space, niche, or  
6 mausoleum crypt is payable when the certificate of interment right is issued and may not  
7 exceed four dollars (\$4.00). The fee for each of the listed items that are included in a preneed  
8 cemetery contract is payable when the contract is made and may not exceed ten dollars  
9 (\$10.00).

10 "**§ 90-210.171. ~~Commission records~~ Records are confidential.**

11 Records, papers, and other documents containing information collected or compiled by the  
12 ~~Commission-Board~~, its members, or employees as a result of a complaint, investigation,  
13 inquiry, or interview in connection with an application for license, or in connection with a  
14 license holder's professional ethics and conduct, shall not be considered public records within  
15 the meaning of Chapter 132 of the General Statutes. Any notice or statement of charges against  
16 a license holder or applicant, or any notice to a license holder or applicant of a hearing to be  
17 held by the ~~Commission-Board~~, is a public record even though it may contain information  
18 collected and compiled as a result of a complaint, investigation, inquiry, or interview conducted  
19 by the ~~Commission-Board~~. If any record, paper, or other document containing information  
20 collected and compiled by the ~~Commission-Board~~ is admitted into evidence in a hearing held  
21 by the ~~Commission-Board~~, it shall then be a public record within the meaning of Chapter 132  
22 of the General Statutes.

23 "**§ 90-210.172. License; cemetery company.**

24 (a) No legal entity shall engage in the business of operating a cemetery company except  
25 as authorized by this ~~Article-Part~~ and without first obtaining a license from the  
26 ~~Commission-Board~~.

27 (b) Any legal entity wishing to establish a cemetery shall file a written application for  
28 authority with the ~~Commission-Board~~ on forms provided by the ~~Commission-Board~~.

29 (c) Upon receipt of the application and filing fee to be set by the ~~Commission-Board~~ in  
30 an amount not to exceed one thousand six hundred dollars (\$1,600), the ~~Commission-Board~~  
31 shall cause an investigation to be made to establish the following criteria for approval of the  
32 application:

33 ...

34 (d) The ~~Commission-Board~~, after receipt of the investigating report, shall grant or  
35 refuse to grant the authority to organize a cemetery based upon the criteria set forth in  
36 ~~G.S. 65-55(e)-subsection (c) of this section~~.

37 (e) If the ~~Commission-Board~~ intends to deny an application, it shall give written notice  
38 to the applicant of its intention to deny. The notice shall state a time and a place for a hearing  
39 before the ~~Commission-Board~~ and a summary statement of the reasons for the proposed denial.  
40 The notice of intent shall be mailed by certified mail to the applicant at the address stated in the  
41 application at least 15 days prior to the scheduled hearing date. The applicant shall pay the  
42 costs of this hearing as assessed by the ~~Commission-Board~~ unless the applicant notifies the  
43 ~~Commission-Board~~ by certified mail at least five days prior to the scheduled hearing date that a  
44 hearing is waived. Any appeals from the ~~Commission's-Board's~~ decision shall be to the court  
45 having jurisdiction of the applicant or the ~~Commission-Board~~.

46 (f) If the ~~Commission-Board~~ intends to grant the authority, it shall give written notice  
47 that the authority to organize a cemetery has been granted and that a license to operate will be  
48 issued upon the completion of the following:

- 49 (1) Establishment of the care and maintenance trust fund and receipt by the  
50 ~~Commission-Board~~ of a certificate from the trust company, certifying receipt  
51 of the initial deposit required under this Article.

- 1 (2) Full development, ready for burial, of not less than two acres including a  
2 completed paved road from a public roadway to said developed section,  
3 certified by inspection of the ~~Commission Board~~ or its representative.  
4 ...

5 **"§ 90-210.173. Existing companies; effect of Article.**

6 Existing cemetery companies at the time of the adoption of this Chapter shall continue in  
7 full force and effect and be granted a license but shall hereafter be operated in accordance with  
8 the provisions of ~~Article 9 of this Chapter~~ this Part.  
9 ...

10 **"§ 90-210.175. Licenses for sales organizations, management organizations and brokers.**

11 (a) No legal entity shall engage in the business of a cemetery sales organization, a  
12 cemetery management organization or a cemetery broker except as authorized by this Article,  
13 and without first obtaining a license from the ~~Commission Board~~.

14 (b) Any legal entity wishing to establish and operate the business of a cemetery sales  
15 organization, a cemetery management organization or a cemetery broker shall file a written  
16 application for authority with the ~~Commission Board~~ on forms provided by the ~~Commission~~  
17 Board which must contain such of the following documents and information as may be required  
18 by the ~~Commission Board~~:

- 19 (1) The appointment of a North Carolina resident to receive service of any  
20 lawful process in any noncriminal proceedings arising under this ~~Chapter~~  
21 Part against the applicant, its principal owners, principal stockholders,  
22 directors and general manager or their personal representatives.  
23 ...

24 (c) The application shall be accompanied by an initial filing fee to be set by the  
25 ~~Commission Board~~ in an amount not to exceed one thousand dollars (\$1,000) for cemetery  
26 sales organization and cemetery management organization and an initial filing fee to be set by  
27 the Commission in an amount not to exceed five hundred dollars (\$500.00) for a cemetery  
28 broker. If ninety percent (90%) or more of the applicant is owned by an existing cemetery  
29 company operating under the ~~North Carolina Cemetery Act, this Part~~, then the initial filing fee  
30 shall be one half of the sums set out herein. On or before July 1 of each year, each licensed  
31 cemetery sales organization, cemetery management organization, or cemetery broker shall pay  
32 a license renewal fee to be set by the ~~Commission Board~~ in an amount not to exceed six  
33 hundred dollars (\$600.00) per year.

34 (d) Upon receipt of the application and filing fee, the ~~Commission Board~~ shall cause an  
35 investigation to be made of the legal entity to conduct the business applied for and the  
36 qualification of said legal entity to do business in North Carolina.

37 (e) The ~~Commission Board~~, after receipt of the investigation report, shall grant or  
38 refuse to grant the authority to organize the organization applied for after it determines that the  
39 applicant possesses good character and general fitness or, in the case of a business association,  
40 employs and is directed by personnel of good character and general fitness.

41 (f) If the ~~Commission Board~~ intends to deny an application, it shall give written notice  
42 to the applicant of its intention to deny. The notice shall state a time and a place for hearing  
43 before the ~~Commission Board~~ and a summary statement of the reasons for the proposed denial.  
44 The notice of intent shall be mailed by certified mail to the applicant at the address stated in the  
45 application at least 15 days prior to the scheduled hearing date. Any appeals from the  
46 ~~Commission's Board's~~ decision shall be to the court having jurisdiction of the applicant, or in  
47 the event of an out-of-state applicant, then to the court having jurisdiction of the  
48 ~~Commission Board~~.

49 (g) If the ~~Commission Board~~ intends to grant the authority, it shall give written notice  
50 that the authority to organize the business applied for has been granted and that a license to

1 operate will be issued upon presentment to the ~~Commission~~Board of a statement of  
2 employment between the applicant and the cemetery or cemeteries to be serviced thereby.

3 ...  
4 **"§ 90-210.176. Licenses for persons selling preneed grave space.**

5 (a) No person shall offer to sell preneed grave spaces, mausoleum crypts, niches,  
6 memorials, vaults or any other preneed cemetery merchandise or services under any plan  
7 authorized for any cemetery, cemetery sales group, or cemetery management group, before  
8 obtaining a license from the ~~Commission~~Board.

9 (b) Persons wishing to obtain a license shall file a written application with the  
10 Commission on forms provided by the ~~Commission~~Board. The ~~Commission~~Board may  
11 require such information and documents as it deems necessary to protect the public interest.

12 (c) The application shall be accompanied by a filing fee to be set by the ~~Commission~~  
13 Board in an amount not to exceed one hundred dollars (\$100.00) to cover the expenses of  
14 processing and investigation. After processing and investigation, the ~~Commission~~Board shall  
15 grant, or refuse to grant, the license applied for. The license fee for a two-year term shall be set  
16 by the ~~Commission~~Board but shall not exceed one hundred dollars (\$100.00).

17 (d) If the ~~Commission~~Board refuses to grant the license applied for, it shall give  
18 written notice to the applicant. The notice shall state a time and a place for hearing before the  
19 ~~Commission~~Board, and a summary statement of the reasons for the refusal to grant the  
20 license. The notice shall be mailed by registered mail or certified mail to the applicant at the  
21 address stated in the application at least 30 days prior to the scheduled hearing date.

22 (e) If the ~~Commission~~Board intends to grant the license, it shall give written notice that  
23 the license will be issued upon presentment to the ~~Commission~~Board of a duly executed  
24 statement of employment between the applicant and the cemetery or cemeteries to be serviced  
25 thereby.

26 (f) The provisions of Article 4 of Chapter 150B of the General Statutes of North  
27 Carolina relating to "Judicial Review" shall apply to appeals or petitions for judicial review by  
28 any person or persons aggrieved by an order or decision of the ~~Commission~~Board.

29 **"§ 90-210.177. Application for a change of control; filing fee.**

30 A person who proposes to acquire control of an existing cemetery company, whether by  
31 purchasing the capital stock of the company, purchasing an owner's interest in the company, or  
32 otherwise acting to effectively change the control of the company, shall first make application  
33 on a form supplied by the ~~Commission~~Board for a certificate of approval of the proposed  
34 change of control. The application shall contain the name and address of each proposed new  
35 owner. The ~~Commission~~Board shall issue a certificate of approval only after it determines that  
36 the proposed new owners are qualified by character, experience, and financial responsibility to  
37 control and operate the cemetery company in a legal and proper manner, and that the interest of  
38 the public generally will not be jeopardized by the proposed change in control. An application  
39 for approval of a change of control must be completed and accompanied by a filing fee to be set  
40 by the ~~Commission~~Board in an amount not to exceed one thousand six hundred dollars  
41 (\$1,600). The ~~Commission~~Board shall not approve any change of control until the applicant  
42 has provided sufficient evidence that any trust account required under ~~G.S. 65-66(b) and~~  
43 ~~G.S. 65-70(b)~~G.S. 90-210.186(b) and G.S. 90-210.190(b) is maintained and funded in the  
44 required amount. If the cemetery company posted a performance bond in lieu of any trust  
45 account required under ~~G.S. 65-66(b) and G.S. 65-70(b)~~G.S. 90-210.186(b) and  
46 G.S. 90-210.190(b), then the ~~Commission~~Board shall not approve any change of control until  
47 the applicant has provided sufficient evidence that the performance bond is being appropriately  
48 maintained and in an amount sufficient to cover all payments made directly or indirectly by or  
49 on account of purchasers who have not received the purchased property and services.

50 **"§ 90-210.178. Records.**

1 A record shall be kept of every burial in the cemetery of a cemetery company, showing the  
2 date of burial, name of the person buried, together with lot, plot, and space in which such burial  
3 was made therein. All sales, trust funds, accounting records, and all other records of the  
4 licensee shall be available at the licensee's principal place of business in this State and shall be  
5 readily available at all reasonable times for examination by an authorized representative of the  
6 ~~Commission Board.~~

7 ...

8 **"§ 90-210.180. Trustees; qualifications; examination of records; enforcement.**

9 (a) The term "corporate trustee" as used in this Article shall mean a bank, credit union,  
10 or trust company authorized to do business in North Carolina under the supervision of the  
11 Commissioner of Banks, Credit Union Administrator, or any other corporate entity; provided  
12 that any corporate entity other than a bank, credit union, or trust company which acts as trustee  
13 under this Article shall first be approved by the ~~Cemetery Commission Board~~ and shall be  
14 subject to supervision by the ~~Cemetery Commission Board~~ as provided herein.

15 (b) Any corporate entity, other than a bank, credit union, or trust company, which  
16 desires to act as trustee for cemetery funds under this Article shall make application to the  
17 ~~Commission Board~~ for approval. The ~~Commission Board~~ shall approve the trustee when it has  
18 become satisfied that:

19 ...

20 (c) Any trustee under this Article, other than a bank, credit union, or trust company  
21 under the supervision of the Commissioner of Banks, shall maintain records relative to  
22 cemetery trust funds as the ~~Commission Board~~ may by regulation prescribe. The records shall  
23 be available at the trustee's place of business in North Carolina and shall be available at all  
24 reasonable times for examination by a representative of the ~~Commission Board~~. The records  
25 shall be audited annually, within 90 days from the end of the trust fund's fiscal year, by an  
26 independent certified public accountant, and a copy of the audit report shall be promptly  
27 forwarded to the ~~Commission Board~~.

28 (d) Whenever it appears that an officer, director, or employee of a trustee, other than a  
29 bank, credit union, or trust company, is dishonest, incompetent, or reckless in the management  
30 of a cemetery trust fund, the ~~Commission Board~~ may bring an action in the courts to remove  
31 the trustee and to impound the property and business of the trustee as may be reasonably  
32 necessary to protect the trust funds.

33 (e) Any trustee shall invest and reinvest cemetery trust funds in the same manner as  
34 provided by law for the investment of trust funds by the clerk of the superior court; provided,  
35 however, that this subsection does not apply to a perpetual trust fund described in ~~G.S. 65-64~~  
36 ~~G.S. 90-210.184~~ or cemetery trust funds held in a fund designated as Trust Fund "A" pursuant  
37 to ~~G.S. 65-64(e)~~, ~~G.S. 90-210.184(e)~~, which may be invested and reinvested in accordance with  
38 G.S. 32-71.

39 **"§ 90-210.181. Required trust fund for care and maintenance; remedy of ~~Commission~~**  
40 **Board for noncompliance.**

41 No cemetery company shall be permitted to establish, or operate if already established, a  
42 cemetery unless provision is made for the future care and maintenance of such cemetery by  
43 establishing a trust fund and designating a corporate trustee to administer said fund in  
44 accordance with a written trust agreement. If any cemetery company refuses or otherwise fails  
45 to provide or maintain an adequate care and maintenance trust fund in accordance with the  
46 provisions of this ~~Article, the Commission, Part, the Board,~~ after reasonable notice, shall  
47 proceed to enforce compliance under the powers vested in it under this ~~Article; Part;~~ provided  
48 any nonprofit cemetery corporation, incorporated and engaged in the cemetery business  
49 continuously since and prior to 1915 and whose current trust assets exceed seven hundred fifty  
50 thousand dollars (\$750,000) shall not be required to designate a corporate trustee. The trust  
51 fund agreement shall contain and include the following: name, location, and address of both the

1 licensee and the trustee showing the date of agreement together with the amounts required  
2 deposited as stated in this Article. No person shall withdraw or transfer any portion of the  
3 corpus of the care and maintenance trust fund without first obtaining written consent from the  
4 ~~Commission Board~~.

5 ...

6 **"§ 90-210.184. Deposits to perpetual care fund.**

7 (a) Deposits to the care and maintenance trust fund must be made by the cemetery  
8 company holding title to the subject cemetery lands on or before the last day of the calendar  
9 month following the calendar month in which final payment is received as provided herein;  
10 however the entire amount required to be deposited into the fund shall be paid within four years  
11 from the date of any contract requiring the payment regardless of whether all amounts have  
12 been received by the cemetery company. If the cemetery company fails to make timely deposit,  
13 the ~~Commission Board~~ may levy and collect a late filing fee of one dollar (\$1.00) per day for  
14 each day the deposit is delinquent on each grave space, niche or mausoleum crypt sold. The  
15 care and maintenance trust fund shall be invested and reinvested by the trustee in accordance  
16 with G.S. 32-71. Investments may be made through means of a common trust fund as described  
17 in G.S. 53-163.5. Cemetery trust funds held in a fund designated as Trust Fund "A" pursuant to  
18 ~~G.S. 65-64(e)~~ G.S. 90-210.184(e) may be invested and reinvested in accordance with  
19 G.S. 32-71. The fees and other expenses of the trust fund shall be paid by the trustee from the  
20 net income thereof and may not be paid from the corpus. To the extent that the net income is  
21 not sufficient to pay the fees and other expenses, the fees and other expenses shall be paid by  
22 the cemetery company.

23 (b) When a municipal, church-owned or fraternal cemetery converts to a private  
24 cemetery as defined in ~~G.S. 65-48~~, G.S. 90-210.140, then the cemetery shall establish and  
25 maintain a care and maintenance trust fund pursuant to this section; provided, however, the  
26 initial deposit for establishment of this trust fund shall be an amount equal to fifty dollars  
27 (\$50.00) per space for all spaces either previously sold or contracted for sale in the cemetery at  
28 the time of conversion or fifty thousand dollars (\$50,000), whichever sum is greater.

29 ~~(d)(c)~~ In each sales contract, reservation or agreement wherein burial rights are priced  
30 separately, the purchase price of the burial rights shall be the only item subject to care and  
31 maintenance trust fund deposits; but if the burial rights are not priced separately therein, the full  
32 amount of the contract, reservations or agreement shall be subject to care and maintenance trust  
33 fund deposits as provided herein, unless the purchase price of the burial rights can be  
34 determined from the accounting records of the cemetery company.

35 ~~(e)(d)~~ When the amount deposited in the perpetual care fund required by this Article of  
36 any cemetery company shall amount to one hundred fifty thousand dollars (\$150,000), anything  
37 in this Article to the contrary notwithstanding, the cemetery company may make all deposits  
38 thereafter either into the original perpetual care trust fund or into a separate fund established as  
39 an irrevocable trust, designated as Perpetual Care Trust Fund "A," and invested by the trustee,  
40 in accordance with G.S. 32-71. Funds in a trust fund designated as Trust Fund "A" may not be  
41 invested in another cemetery company.

42 ~~(f)(e)~~ For special endowments for a specific lot, grave, or a family mausoleum, memorial,  
43 marker, or monument, the cemetery may set aside the full amounts received for this individual  
44 special care in a separate trust or by a deposit to a savings account in a bank, credit union, or  
45 savings and loan association located within and authorized to do business in the State;  
46 provided, however, if the licensee does not set up a separate trust or savings account for the  
47 special endowment the full amount thereof shall be deposited in Perpetual Care Trust Fund  
48 "A."

49 **"§ 90-210.185. Trust fund; financial reports.**

50 Within 60 days after the end of the calendar or fiscal year of the cemetery company, the  
51 trustee shall furnish adequate financial reports with respect to the care fund on forms provided

1 by the ~~Commission-Board~~. However, the ~~Commission-Board~~ may require the trustee to make  
2 such additional financial reports as it may deem advisable.

3 **"§ 90-210.186. Receipts from sale of personal property or services; trust account;  
4 penalties.**

5 ...

6 (b) Any cemetery company or other entity entering into a contract for the sale of  
7 personal property or services, to be used in a cemetery in connection with disposing of, or  
8 commemorating the memory of a deceased human being wherein the use of the personal  
9 property or the furnishing of services is not immediately requested or required, shall comply  
10 with the following requirements and conditions:

11 (1) The cemetery company or other entity shall deposit an amount equal to sixty  
12 percent (60%) of all proceeds received on the contracts into a trust account,  
13 either in the form of an account governed by a trust agreement and handled  
14 by a corporate trustee or in the form of a passbook savings account,  
15 certificates of deposit for time certificates, or money-market certificates with  
16 a licensed and insured bank, credit union, or savings institution located in the  
17 State of North Carolina until the amount deposited equals sixty percent  
18 (60%) of the actual sale price of the property or services sold. The accounts  
19 or deposits or both shall be in the name of the cemetery company or other  
20 entity in a form which will permit withdrawals only with the participation  
21 and consent of the ~~Cemetery-Commission-Board~~ as required by subdivision  
22 (4) of this subsection.

23 ...

24 (4) Withdrawals from a trust account may be made by the depositor, but only  
25 with the written approval of the Commission or officer or employee of the  
26 ~~Commission-Board~~ authorized to act for the ~~Commission-Board~~.  
27 Withdrawals may be made only upon delivery of the merchandise or  
28 services for which the funds were deposited, cancellation of a contract, the  
29 presence of excess funds in the trust account, or under other circumstances  
30 deemed appropriate by the ~~Commission-Board~~. The ~~Commission-Board~~  
31 shall promulgate rules and regulations governing withdrawals from trust  
32 accounts, including time and frequency of withdrawals, payments that will  
33 be made with the withdrawals, notice to the ~~Commission-Board~~ prior to  
34 withdrawals, the number and identity of persons other than the owner who  
35 are authorized by the owner to make withdrawals, the officers and  
36 employees of the ~~Commission-Board~~ authorized to approve withdrawals, and  
37 any other matters necessary to implement the provisions of this subdivision.  
38 Withdrawals will not be allowed if the amount remaining in the trust account  
39 would fall below sixty percent (60%) of all proceeds received on account of  
40 contracts for the sale of the personal property or services.

41 ...

42 (6) Every year after September 1, 1975, the cemetery company, the trustee or  
43 other entity shall within 75 days after the end of the calendar year, file a  
44 financial report of the trust funds with the ~~Commission-Board~~, setting forth  
45 the principal thereof, the investments and payments made, the income earned  
46 and disbursed; provided, however, that the ~~Commission-Board~~ may require  
47 the cemetery, trustee, or other entity to make the additional financial reports  
48 as it may deem advisable.

49 ...

50 (g) In lieu of the deposits required under subsection (b) of this section, the cemetery  
51 company or other entity may post with the ~~Commission-Board~~ a good and sufficient

1 performance bond by surety company licensed to do business in North Carolina and in an  
2 amount sufficient to cover all payments made directly or indirectly by or on account of  
3 purchasers who have not received the purchased property and services. Money received from  
4 the sale or assignment of notes entered into by the purchasers, or otherwise, shall be treated as  
5 payments made by the purchasers.

6 (h) The ~~Commission Board~~ shall have the power and is required from time to time as it  
7 may deem necessary to examine the business of any cemetery company or other entity writing  
8 contracts for the sale of the property or services as herein contemplated. The written report of  
9 the examination shall be filed in the office of the ~~Commission Board~~. Any person or entity  
10 being examined shall produce the records of the company needed for the examination.

11 ...

12 ~~(k)~~(j) Nothing in this section shall apply to persons or legal entities holding licenses under  
13 Article 13D of Chapter 90 of the General Statutes when engaging in activities for which a  
14 license is required under that Article.

15 ~~(l)~~(k) If any report is not received within the time stipulated by the ~~Commission Board~~ or  
16 herein, the ~~Commission Board~~ may levy and collect a late filing fee of twenty-five dollars  
17 (\$25.00) per month for each month of delinquency.

18 ~~(m)~~(l) Within 30 days following the execution of a contract for the sale of personal  
19 property or performance of services, a purchaser may cancel his contract by giving written  
20 notice to the seller. The seller may cancel the contract, upon default by purchaser, by giving  
21 written notice to the purchaser. Within 30 days of notice of cancellation, the cemetery company  
22 or other entity shall refund to purchaser the principal amount on deposit in the trust account for  
23 his benefit on any undelivered merchandise or services. This amount (no other obligations  
24 owed the purchaser by the seller) shall constitute the purchaser's entire entitlements under the  
25 contract. The seller may not terminate the contract without complying with this subsection.

26 ~~(n)~~(m) A cemetery company shall not require the purchaser or consumer of a grave space,  
27 mausoleum, or mausoleum section to purchase a vault from the cemetery company or from any  
28 other particular seller of vaults as a condition to the purchase or use of a grave space,  
29 mausoleum, or mausoleum section but may require that a casket be enclosed within a vault. A  
30 cemetery company may charge a reasonable fee not to exceed twenty dollars (\$20.00) for  
31 delivery of vaults or inspection of vaults that are purchased from a person other than the  
32 cemetery company.

33 ...

34 **"§ 90-210.188. License not assignable or transferable.**

35 No license issued under ~~G.S. 65-67~~G.S. 90-210.187 shall be transferable or assignable and  
36 no licensee shall develop or operate any cemetery authorized by this Article under any name or  
37 at any location other than that contained in the application for such license.

38 **"§ 90-210.189. Minimum acreage; sale or disposition of cemetery lands.**

39 ...

40 (c) Any licensee may convey and transfer to a municipality or county its real and  
41 personal property together with moneys deposited with the trustee; provided said municipality  
42 or county will accept responsibility for maintenance thereof and prior written approval of the  
43 ~~Commission Board~~ is first obtained.

44 (d) The provisions of subsections (a) and (b) relating to a requirement for minimum  
45 acreage shall not apply to those cemeteries licensed by the ~~Commission Board~~ on or before  
46 July 1, 1967, which own or control a total of less than 30 acres of land; provided that such  
47 cemeteries shall not dispose of any of such lands. A nongovernment lien or other interest in  
48 land acquired in violation of this section is void.

49 **"§ 90-210.190. Construction of mausoleums and belowground crypts; trust fund for  
50 receipts from sale of preconstruction crypts; compliance requirements.**

1 (a) A cemetery company shall be required to start construction of that section of a  
2 mausoleum or bank of belowground crypts in which sales, contracts for sale, reservations for  
3 sales or agreements for sales are being made, within 48 months after the date of the first sale.  
4 The construction of the mausoleum section or bank of belowground crypts shall be completed  
5 within five years after the date of the first sale made; provided, however, extensions for  
6 completion, not to exceed three years, may be granted by the ~~Commission-Board~~ for good  
7 reasons shown.

8 (b) A cemetery company which plans to offer for sale space in a section of a  
9 mausoleum or bank of underground crypts prior to its construction shall establish a  
10 preconstruction trust account. The trust account shall be administered and operated in the same  
11 manner as the merchandise trust account provided for in ~~G.S. 65-66~~ G.S. 90-210.186 and shall  
12 be exclusive of the merchandise trust account or the other trust accounts or funds that may be  
13 required by law. The personal representative of any purchaser of the space who dies before  
14 completion of construction shall be entitled to a refund of all moneys paid for the space  
15 including any income earned thereon.

16 ...  
17 (d) The cemetery company shall be entitled to withdraw the funds from the  
18 preconstruction trust account only after the ~~Commission-Board~~ has become satisfied that  
19 construction has been completed; provided, however, that during construction of the  
20 mausoleum or bank of belowground crypts the ~~Commission-Board~~ may, in its discretion,  
21 authorize a specific percentage of the funds to be withdrawn when it appears that at least an  
22 equivalent percentage of construction has been completed.

23 (e) If a mausoleum section or bank of underground crypts is not completed within the  
24 time limits set out in this section the corporate trustee, if any, shall contract for and cause the  
25 project to be completed and paid therefor from the trust account funds deposited to the project's  
26 account paying any balance, less cost and expenses, to the cemetery company. In the event  
27 there is no corporate trustee, the ~~Commission-Board~~ shall appoint a committee to serve as  
28 trustees to contract for and cause the project to be completed and paid therefor from the trust  
29 account funds deposited to the project's account paying any balance, less cost and expenses, to  
30 the cemetery company.

31 (f) In lieu of the payments outlined hereunder to the preconstruction trust account the  
32 cemetery company may deliver to the ~~Commission-Board~~ a good and sufficient completion or  
33 performance bond in an amount and by surety companies acceptable to the ~~Commission-Board~~.  
34 **"§ 90-210.191. Penalties.**

35 (a) Except as provided in this subsection, a person violating any provisions of this  
36 ~~Article, Part,~~ of any order or rule promulgated under this ~~Article, Part,~~ or of any license issued  
37 by the ~~Commission-Board~~ is guilty of a Class 1 misdemeanor. Each failure to deposit funds in a  
38 trust fund in accordance with this ~~Article-Part~~ is a separate offense. A person who has failed to  
39 deposit funds in a trust fund in accordance with this Article and whose delinquent deposits  
40 equal or exceed twenty thousand dollars (\$20,000) is guilty of a Class I felony.

41 (b) The officers and directors or persons occupying similar status or performing similar  
42 functions of any cemetery company, cemetery sales organization, cemetery management  
43 organization or cemetery broker, as defined in ~~this Chapter,~~ G.S. 90-210.140, failing to make  
44 required contributions to the care and maintenance trust fund and any other trust fund or escrow  
45 account shall be liable for any offense based on the failure and upon conviction for the offense  
46 shall be punished in the manner prescribed by law."

47 **SECTION 11.** G.S. 58-58-97 reads as rewritten:

48 **"§ 58-58-97. Provision of life insurance information upon notification of insured's death.**

49 (a) Any person licensed to practice funeral directing or any employee of a funeral  
50 establishment licensed under the provisions of Article ~~13A-13G~~ of Chapter 90 of the General  
51 Statutes providing funeral service, as that term is defined in ~~G.S. 90-210.20,~~

1 G.S. 90-210.140(20), for a deceased person insured or believed to be insured under a contract  
2 of life insurance or under a group life insurance policy may request information regarding the  
3 deceased person's life insurance contracts by providing an insurer with (i) a copy of a  
4 notification of death filed pursuant to G.S. 130A-112, (ii) written authorization from the person  
5 or persons with legal authority to direct disposition of the deceased's body as prescribed under  
6 G.S. 90-210.124 or G.S. 130A-420, and (iii) in the case of a person covered or believed to be  
7 covered under a group life insurance policy, the affiliation of the deceased entitling them to  
8 coverage under the group life insurance policy. As soon as possible after receipt of the request,  
9 the life insurance company shall inform the person authorized by this section to make an  
10 inquiry of the following:

- 11 (1) The existence of any contract insuring the life of the deceased person.
- 12 (2) Any beneficiaries on record under any life insurance contract insuring the  
13 life of the deceased person.
- 14 (3) The amount of any liens or loans outstanding on the policy.
- 15 (4) The amount of benefits payable to the beneficiaries.
- 16 (5) Whether the policy has been reinstated within the last 24 months.

17 The insurer shall provide a claim form to any person or assignee making the request.

18 ...."

19 **SECTION 12.** G.S. 65-106 reads as rewritten:

20 "**§ 65-106. Removal of graves; who may disinter, move, and reinter; notice; certificate**  
21 **filed; reinterment expenses; due care required.**

22 ...

23 (f) The party effecting the disinterment, removal, and reinterment of a decedent's  
24 remains under the provisions of this Part shall ensure that the site in which reinterment is  
25 accomplished shall be of such suitable dimensions to accommodate the remains of that  
26 decedent only and that such site shall be reasonably accessible to all relatives of that decedent,  
27 provided that the remains may be reinterred in a common grave where written consent is  
28 obtained from the next of kin. If under the authority of this Part, disinterment, removal, and  
29 reinterment are effected by the State of North Carolina or any of its agencies, public  
30 institutions, or political subdivisions, the United States of America or any agency thereof, any  
31 electric power or lighting company, then such disinterment, removal, and reinterment shall be  
32 performed by a funeral director duly licensed as a "funeral director" or a "funeral service  
33 licensee" under the provisions of Article ~~13A-13G~~ of Chapter 90 of the General Statutes.

34 ...."

35 **SECTION 13.** G.S. 90-210.60 reads as rewritten:

36 "**§ 90-210.60. Definitions.**

37 As used in this Article, unless the context requires otherwise:

- 38 (1) "Board" means the North Carolina ~~Board of Funeral Service and Cemetery~~  
39 Board as created pursuant to Article ~~13A-13G~~ of Chapter 90 of the General  
40 Statutes;

41 ...."

42 **SECTION 14.** G.S. 90-210.67 reads as rewritten:

43 "**§ 90-210.67. Application for license.**

44 (a) No person may offer or sell preneed funeral contracts or offer to make or make any  
45 funded funeral prearrangements without first securing a license from the Board. Notwithstanding any other provision of law, any person who offers to sell or sells a casket, to  
46 be furnished or delivered at a time determinable by the death of the person whose body is to be  
47 disposed of in the casket, shall first comply with the provisions of this Article. There shall be  
48 two types of licenses: a preneed funeral establishment license and a preneed sales license. Only  
49 funeral establishments holding a valid establishment permit pursuant to ~~G.S. 90-210.25(d)~~  
50 G.S. 90-210.155(f) shall be eligible for a preneed funeral establishment license. Employees and  
51

1 agents of such entities, upon meeting the qualifications to engage in preneed funeral planning  
2 as established by the Board, shall be eligible for a preneed sales license. The Board shall  
3 establish the preneed funeral planning activities that are permitted under a preneed sales  
4 license. The Board shall adopt rules establishing such qualifications and activities no later than  
5 12 months following the ratification of this act [Session Laws 1991 (Reg. Sess., 1992), c. 901,  
6 s. 2]. Preneed sales licensees may sell preneed funeral contracts, prearrangement insurance  
7 policies, and make funded funeral prearrangements only on behalf of one preneed funeral  
8 establishment licensee; provided, however, they may sell preneed funeral contracts,  
9 prearrangement insurance policies, and make funeral prearrangements for any number of  
10 licensed preneed funeral establishments that are wholly owned by or affiliated with, through  
11 common ownership or contract, the same entity; provided further, in the event they engage in  
12 selling prearrangement insurance policies, they shall meet the licensing requirements of the  
13 Commissioner of Insurance. Every preneed funeral contract shall be signed by a person  
14 licensed as a funeral director or funeral service licensee pursuant to Article ~~13A~~13G of  
15 Chapter 90 of the General Statutes.

16 Application for a license shall be in writing, signed by the applicant and duly verified on  
17 forms furnished by the Board. Each application shall contain at least the following: the full  
18 names and addresses (both residence and place of business) of the applicant, and every partner,  
19 member, officer and director thereof if the applicant is a partnership, limited liability company,  
20 association, or corporation and any other information as the Board shall deem necessary. A  
21 preneed funeral establishment license shall be valid only at the address stated in the application  
22 or at a new address approved by the Board.

23 ...."

24 **SECTION 15.** G.S. 130A-33.31 reads as rewritten:

25 "**§ 130A-33.31. Commission of Anatomy – Members; selection; term; chairman; quorum;  
26 meetings.**

27 (a) The Commission of Anatomy shall consist of five members, one representative from  
28 the field of mortuary science, and one each from The University of North Carolina School of  
29 Medicine, East Carolina University School of Medicine, Duke University School of Medicine,  
30 and Bowman Gray School of Medicine. The dean of each school shall make recommendations  
31 and the Secretary shall appoint from such recommendations a member to the Commission. The  
32 president of the ~~State Board of Funeral Service~~North Carolina Funeral Service and Cemetery  
33 Board shall appoint the representative from the field of mortuary science to the Commission.  
34 The members shall serve terms of four years except two of the original members shall serve a  
35 term of one year, one shall serve a term of two years, one shall serve a term of three years, and  
36 one shall serve a term of four years. The Secretary shall determine the terms of the original  
37 members.

38 ...."

39 **SECTION 16.(a)** The terms of members appointed to the North Carolina Funeral  
40 Service and Cemetery Board and serving as of July 1, 2015, shall expire on December 31,  
41 2015.

42 **SECTION 16.(b)** Notwithstanding any other provision of law, the terms of the two  
43 of the members appointed to the North Carolina Funeral Service and Cemetery Board by the  
44 Governor pursuant to G.S. 90-210.145(b)(1), as amended by this act, shall expire December 31,  
45 2015.

46 **SECTION 16.(c)** Notwithstanding the provisions of G.S. 90-210.145, as enacted  
47 by Section 6 of this act, to establish staggered terms for the three members appointed to the  
48 North Carolina Funeral Service and Cemetery Board (Board) pursuant to this act, appointments  
49 to the Board shall be as follows:

50 (1) The members appointed by the Governor pursuant to  
51 G.S. 90-210.145(b)(3a), as enacted by Section 7 of this act, shall be

- 1 appointed for two-year terms to commence January 1, 2016, and expire  
2 December 31, 2017.
- 3 (2) The member appointed by the General Assembly upon the recommendation  
4 of the President Pro Tempore of the Senate, who owns or manages a  
5 cemetery in North Carolina pursuant to G.S. 90-210.145(b)(4), as enacted by  
6 Section 7 of this act, shall be appointed for a one-year term to commence  
7 January 1, 2016, and to expire December 31, 2016.
- 8 (3) The member appointed by the General Assembly upon the recommendation  
9 of the Speaker of the House of Representatives, who owns or manages a  
10 cemetery in North Carolina pursuant to G.S. 90-210.145(b)(5), as enacted by  
11 Section 7 of this act, shall be appointed for a three-year term to commence  
12 January 1, 2016, and to expire December 31, 2018.
- 13 Members described in this section shall serve for the terms for which they were appointed and  
14 until their successors are appointed and qualified.
- 15 **SECTION 17.** The Revisor of Statutes shall change the phrase "Board of Funeral  
16 Service" or "State Board of Funeral Service" with the phrase "Funeral Service and Cemetery  
17 Board" wherever it appears in Articles 13E and 13F of Chapter 90 of the General Statutes.
- 18 **SECTION 18.** The Revisor of Statutes shall, on or after the effective date of this  
19 act, correct any reference or citation in the General Statutes that is amended by this act by  
20 deleting the incorrect references and substituting correct references.
- 21 **SECTION 19.** Unless otherwise provided, this act becomes effective December 31,  
22 2015.